

Application Serial No. 09/893,332
Attorney Docket No. 60027.0017USU1/BS01039

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REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks. In the Office Action dated September 22, 2006 (hereinafter the "Action"), Claim 16 was rejected under 35 U.S.C. §112 and Claims 1-9, 11, 12, and 14-22 were rejected under 35 U.S.C. §103(a). Prior to entry of this response, Claims 1-9, 11, 12, and 14-22 were pending in the application, of which Claims 1, 16, and 20 are independent. Following this response, Claims 1-9, 11, 12, and 14-22 remain in this application. New claim 23 has been added to provide a claim of varied scope than the claims initially filed. Applicants hereby address the Examiner's rejections in turn.

Substance of Interview Summary

A telephonic interview occurred between the undersigned, Murrell Blackburn and Examiner Asghar H. Bilgrami on Friday, November 17, 2006. The interview covered the rejections to claims 1, 16, and 20 under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2002/0059627A1 (hereinafter, "Thomas"). The undersigned pointed out to the Examiner potential amendments that distinguish the present invention from Thomas. In particular Thomas does not teach or suggest "a network management protocol agent to coordinate communications between the media distribution device and the media delivery service provider, wherein the coordinated communications between the media distribution device and the media delivery service provider occur at an off-peak time."

The Examiner indicated that the amendment may overcome the current references but would require further search and consideration. Specifically, the Examiner indicated that the arguments made by the undersigned may have merit, however further consideration and/or search is still required. This written response is thus, submitted in follow-up to the telephonic interview for consideration by the Examiner, as it is believed to have placed the application in condition for allowance.

Claim Rejection - 35 U.S.C. §112

In the Action, the Examiner rejected Claim 16 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way to

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reasonably convey to one skilled in the art, at the time the application was filed, that the inventor had possession of the claimed invention. Claim 16 has been amended, and Applicants respectfully submit that the amendment overcomes this rejection and adds no new matter.

Claim Rejections - 35 U.S.C. §103

In the Action, the Examiner rejected Claims 1-9, 11, 12, and 14-22 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0059627A1 (hereinafter, "Thomas"). Claims 1, 16, and 20 have been amended, and Applicants respectfully submit that the amendment overcomes this rejection and adds no new matter.

Amended Claim 1 is patentably distinguishable over the cited art for at least the reason that it recites, for example, "a network management protocol agent to coordinate communications between the media distribution device and the media delivery service provider, wherein the coordinated communications between the media distribution device and the media delivery service provider occur at an off-peak time." Amended Claims 16 and 20 each contain a similar recitation. Support for the amendments can be found in Applicants' specification at least on page 8, lines 4-18 and page 9, lines 9-19.

In contrast, Thomas at least does not teach or suggest the aforementioned recitation. For example, Thomas discloses a remote server that stores user-specific information. (See Abstract.) In Thomas, when valid login information is entered and a purchase button is selected, the distribution of the selected video-on-demand program may be authorized to the user from a server, a remote server network, or other suitable distribution source to the user who is currently logged into the system. (See paragraph [0081], lines 1-6.) The requested video-on-demand program may be displayed in a display screen. (See paragraph [0081], lines 6-8.) Thomas does not teach or suggest coordinating off-peak communications via a network management protocol agent. In contrast, Thomas requires the user to be currently logged into a system. Thomas is completely silent regarding coordinating communications such that they occur during off-peak times.

Thomas would not have rendered the claimed invention obvious because Thomas at least do not disclose or suggest "a network management protocol agent to coordinate communications

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between the media distribution device and the media delivery service provider, wherein the coordinated communications between the media distribution device and the media delivery service provider occur at an off-peak time," as recited by amended Claim 1. Amended Claims 16 and 20 each include a similar recitation. Accordingly, independent Claims 1, 16, and 20 each patentably distinguish the present invention over the cited art, and Applicants respectfully request withdrawal of this rejection of Claim 1, 16, and 20.

Dependent Claims 2-9, 11, 12, 14, 15, and 17-22 are also allowable at least for the reasons described above regarding independent Claims 1, 16, 20, and by virtue of their dependency upon independent Claim 1, 16, or 20. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claims 2-9, 11, 12, 14, 15, and 17-22.

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In view of the foregoing remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,
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